

## ZONING BOARD OF REVIEW MINUTES

AUGUST 6, 2008

The following petitions were received and were heard by the Tiverton Zoning Board of Review on Wednesday, August 6, 2008 at 10:00 p.m. at the Tiverton Town Hall, 343 Highland Road.

Members present: Vice Chairman John Jackson, Richard Taylor, Susan Krumholz, Lise Gescheidt & Raymond LaFazia.

Also present were: Peter Ruggiero, Town Solicitor, Mary Ann Escobar, Court Reporter and Gareth Eames, Building Inspector.

1. A petition has been filed by Tiverton CVS, Inc., as the applicant, requesting a special use from Article IV of the Tiverton Zoning Ordinance in order to construct a drive-through service for pharmacy use, and are also requesting a special use permit to Article XII of the Tiverton Zoning Ordinance Section 4.b(2)(a) exceeding area and height of freestanding sign, Section 4.b(1) exceeding the number of attached signs, Section 4.b(2)(c) exceeding the area of the attached signs, Section 4.b(1) exceeding the number of freestanding signs and Section 7.a. to internally illuminate signs at 500 and 520 Main Road, Tiverton, RI being Map 2-13 Block 194 Card 1B and Block 94 Card 94A on Tiverton Tax Assessor's maps allowed in General Commercial zoning district.

**Decision:** Ms. Gescheidt and Mr. Jackson recused themselves from this petition, leaving three voting members, which did not make a full quorum. Ms. Krumholz made a motion to continue until the October meeting. Ms. Gescheidt seconded. The Vote was unanimous. Voting were: Vice Chairman Jackson, Richard Taylor, Susan Krumholz, Lise Gescheidt & Raymond LaFazia.

2. A petition has been filed by Tiverton CVS, Inc., as the applicant, requesting variances from Article XII, Section 4 of the Tiverton Zoning Ordinance to erect a pylon sign exceeding area and height, erect more than two attached signs exceeding area and to exceed the number of free standing signs located at 500 and 520 Main Road, Tiverton, RI being Map 2-13 Block 194 Card 1B and Block 94 Card 94A on Tiverton Tax Assessor's maps allowed in General Commercial zoning district.

**Decision:** Ms. Gescheidt and Mr. Jackson recused themselves from this petition, leaving three voting members, which did not make a full quorum. Ms. Krumholz made a motion to continue until the October meeting. Ms. Gescheidt seconded. The Vote was unanimous. Voting were: Vice Chairman Jackson, Richard Taylor, Susan Krumholz, Lise Gescheidt & Raymond LaFazia.

3. A petition has been filed by the Tiverton Yacht Club, 58 Riverside Drive requesting a variance to Article V, Section 1 of the Tiverton Zoning Ordinance in order to permit existing lockers to remain located at 0 Riverside Drive, Tiverton, RI being Map 6-5, Block 73, Card 30 on Tiverton Tax Assessor's maps closer to the side yard setback than currently allowed in a waterfront zoning district.

**Decision:** Ms. Krumholz made a motion to continue until September 3, 2008. Ms. Gescheidt seconded. The Vote was 4-1. Voting for were: Vice Chairman Jackson, Susan Krumholz, Lise Gescheidt & Raymond LaFazia. Opposed: Richard Taylor. The motion carried.

4. A petition has been filed by Paul J. Jr & Beth Ann Amarello of 869 Main Road requesting a variance to Article V Section 1 of the Tiverton Zoning Ordinance in order to subdivide one parcel into four, leaving lot 1 with less lot area and width and less than required side yard setback and lot 2 with less lot area and less than required side and rear yard setbacks at 896 Main Road, Tiverton, Rhode Island being Map 1-13, Block 94, Card 181 located in general commercial zoning district.

**Decision:** Attorney Leary appeared on behalf of the petitioner. Also with Attorney Leary was his engineer, John Braga.

Mr. Leary stated as follows: The whole lot as shown on the plans which were filed with the application is almost nine acres in area. And the problem that's caused here results from the fact that the front part of the lot as the zoning line is shown on the plan is located in a general commercial zone, and the rear portion of the lot is located in an R60 zone.

At the present time there are two dwellings and the laundry building on the whole nine-acre lot. They are all pre-existing nonconforming uses. The applicant submitted a proposal to the planning board to subdivide the land as shown in the plan into four lots. On May 20th the planning board granted conditional preliminary approval.

Proposed lot one which is this lot right here is going to be subdivided so that the existing two story residence will be the only use on that lot. Proposed lot two will contain the other existing residence plus the laundry building. Also, shown on the plan is the subdivision of the remainder of the land in the R60 zone. It is two large lots.

The Board went into Executive Session to discuss the petition. Mr. Taylor made a motion to grant the requested dimensional variances as being to deny would be more than a mere inconvenience. On lot one to grant the variance to reduce the lot area from the required 60,000 square feet to 22,453 square feet, to grant the 72.41 foot variance to the lot width on lot one, to a width of 102.59 feet, variance to reduce the side yard requirement to below the required 30 feet to 20.2 feet which would be a variance of 9.8.

On lot two to reduce the requirement to grant a variance to reduce lot size of 60,000 square feet to 49,246 square feet, to reduce the side yard setback to 20 feet which is a ten-foot variance as being the least possible and to reduce rear yard less than 60 feet to reduce it to 23.5 feet which would be a variance of 36.5 feet. Ms. Gescheidt seconded. Voting for were: Vice Chairman Jackson, Susan Krumholz, Lise Gescheidt & Richard Taylor. Raymond LaFazia abstained from voting.

5. A petition filed by the Wilbur Family LLC of 85 King Road requesting a variance to Article V, Section 2.d and Section 1 of the Tiverton Zoning Ordinance in order to subdivide one parcel into two with lot two having less than required frontage and lot width at 85 East King Road, Tiverton, Rhode Island being Map 4-7, Block 143, Card on Tiverton Tax Assessor's maps located in an R80 zoning district

**Decision:** Attorney Leary appeared on behalf of the petitioner. He stated that it's a 19 acre lot, approximately, in an R80 zone. The proposal is to divide it into two lots. Lot one which is up off East King Road. That's Mr. Wilbur's home and that lot will remain as his home, and that's a 3.6 acre lot. Lot two is approximately 15 acres in size. Mr. Wilbur has received conditional preliminary approval from the Planning Board regarding this subdivision.

Mr. Wilbur testified that he wishes to do this because he is in bad health and cannot afford the taxes on the whole property.

The Board went into Executive Session to discuss the matter. Ms. Gescheidt made a motion to grant the variance and give the relief of being able to make this into two lots and allowing the 40.75 foot variance in the front and also lot width of 50 feet. Mr. LaFazia seconded. The Vote was unanimous. Voting were: Vice Chairman Jackson, Richard Taylor, Susan Krumholz, Lise Gescheidt & Raymond LaFazia.

6. A Petition has been filed by Douglas Waite of 1492 Crandall Road requesting a variance to Article VI, Section 3.b and Article V, Section 1 of the Tiverton Zoning Ordinance in order to construct a detached garage at 1492 Crandall Road, Tiverton, Rhode Island being Map 5-3, Block 131, Card 29D of the Tiverton Zoning Ordinance whereby occupying a front yard within an accessory structure is closer to the front yard setback than is allowed in an R80 zoning district.

**Decision:** Attorney Thomas Brady appeared on behalf of the petitioner. Mr. Brady presented the site plan and ISDS plan showing that the garage cannot be put in the back yard, and photographs as exhibits. Mr. Brady stated that this is the only possible place for a garage, due to the septic and other setbacks on the property.

Mr. Waite testified that he wishes to construct a garage to store his outdoor furniture and lawnmower. He has talked to the neighbors and no one had a problem with it. He is set back and has hedges along the property for a buffer.

The Board went into Executive Session to discuss the petition. Ms. Krumholz made a motion to grant the variance to reduce the front set back by 15 feet, from 10 to 35, and to allow the construction of ancillary building in the front yard. Ms. Gescheidt seconded. The Vote was unanimous. Voting were: Vice Chairman Jackson, Richard Taylor, Susan Krumholz, Lise Gescheidt & Raymond LaFazia.

- 7 Administrative Items. The Board did not vote on the previous minutes. Mr. Ruggiero went over with the board a letter received by Mr. David Campbell.

Ms. Krumholz made a motion to adjourn. Ms. Gescheidt seconded. The Vote was unanimous. Voting were: Vice Chairman Jackson, Richard Taylor, Susan Krumholz, Lise Gescheidt & Raymond LaFazia.

Whereupon the hearing concluded at 11:15 p.m.

ZBR: mae

C E R T I F I C A T E

I, Mary Ann C. Escobar, Registered Professional Reporter, hereby certify that the foregoing 4 pages are transcribed to the best of my knowledge, skill & ability.

IN WITNESS WHEREOF, I have hereunto subscribed my hand this 30th day of August, 2008.

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Mary Ann C. Escobar, RPR